

The sale of tangible personal property for the purpose of resale is not taxable so long as the purchaser provides the seller with a Certificate of Resale in accordance with 86 Ill. Adm. Code 130.1405. (This is a GIL).

October 26, 2000

Dear Mr. Xxxxx:

This letter is in response to your letter dated June 22, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

The ORGANIZATION is comprised of approximately 1000 independent stores throughout the state.

We would like clarification on a retailers obligation to pay sales tax on the purchase of store supplies: i.e. meat trays, produce trays, cash register receipt tapes, shopping bags, paper, ribbons etc.

If a retailer is obligated to pay tax on these items and their supplier does not charge tax, how would they account for the tax on their returns.

Section 3 of the Illinois Use Tax Act, 35 ILCS 105/3, imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. This would include items that normally are used by grocery stores such as meat trays, produce trays, and cash register tapes. Retailers' Occupation Tax is imposed upon gross receipts of sellers and the tax acts contain provisions that require the retailer to collect the complementary Use Tax from the customer. This in effect reimburses the retailer for his Retailers' Occupation Tax liability. When a grocery store purchases consumable supply items from vendors who do not collect Illinois tax, the purchaser should self-assess the Use Tax and remit it directly to the Illinois Department of Revenue.

The sale of tangible personal property for the purpose of resale is not taxable so long as the purchaser provides the seller with a Certificate of Resale in accordance with 86 Ill. Adm. Code 130.1405, enclosed. Regarding the purchase of shopping bags, please note that sellers of containers to purchasers who sell tangible personal property contained in such containers to others are deemed to make sales of such containers to purchasers for purposes of resale, the receipts from which sales are not subject to the Retailers' Occupation Tax, if the purchasers of such containers transfer the ownership of the containers to their customers together with the ownership of the tangible personal property contained in such containers. Please see 86 Ill. Adm. Code 130.2070, enclosed.

Regarding the paper and ribbons about which you inquire, we do not have sufficient information about their use to determine their taxability. However, you can apply the above stated principles to make this decision. If paper supplies or ribbons are purchased for use by the grocery they would be taxable, but if they are purchased for resale they can be purchased tax-free. For example, paper towels used by employees for cleaning purposes are taxable while paper sheets used to wrap meat for sale to customers would be eligible for the resale exemption upon purchase.

Labels which list information for customer use such as product ingredients, or cooking or storage information, are considered to be part of the packaging and may be purchased for resale pursuant to Section 130.2070(b)(1). However, labels that are primarily for the benefit of the seller of the item are taxable. For example, pricing labels and bar code labels are primarily for the benefit of the seller and therefore are subject to tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.